



## STATE BOARD OF EQUALIZATION

70 N STREET, SACRAMENTO, CALIFORNIA  
P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808  
(916) 445-4982

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Executive Secretary

No. 81/152

November 6, 1981

TO COUNTY ASSESSORS:

### NEW LEGISLATION - REVISION OF CHANGE IN OWNERSHIP STATUTES AND CHANGE IN OWNERSHIP REPORTING

Senate Bill 1211, Chapter 615 of the Statutes of 1981, was signed by the Governor on September 22, 1981; and Assembly Bill 152, Chapter 1141 of the Statutes of 1981, became law on October 1, 1981. These bills, copies of which are enclosed, amend various sections of the California Revenue and Taxation Code dealing with change in ownership. Senate Bill 1211 was enacted as an urgency statute, and takes immediate effect.

Section 1 of Senate Bill 1211 amends Section 62 of the Revenue and Taxation Code. Section 2 of this bill does not become effective because this bill was chaptered before Assembly Bill 152. Section 62 is amended by the addition of subdivision (k) which excludes from change in ownership any transfer between certain corporations where the transferor and transferee corporations are regulated by laws, rules, regulations, or canons of the same religious denomination.

This amendment will apply to any change in ownership occurring on or after March 1, 1975; however, no escape assessments shall be levied and no refund shall be made for any years prior to 1981-82. Any property reappraised as a result of such a transfer should be returned to the base-year value it had prior to the transfer, and a refund for the fiscal year 1981-82 should be granted if the taxes have been paid.

The rest of this letter deals with changes made by Assembly Bill 152. The provisions of Assembly Bill 152 will affect any change in ownership occurring on or after March 1, 1975. However, all changes in value shall be made effective commencing with the 1982-83 fiscal year. Escape assessments should not be levied nor should refunds be granted for any years prior to the 1982-83 fiscal year with the exception of Section 62(j), Section 63(e), Section 480.1, and Section 480.2.

Section 2 of Assembly Bill 152 amends subdivision (j) of Section 62. In order for a transfer to be excluded under this subdivision, the transfer must have occurred during the time period March 1, 1978 to March 1, 1981. The transfer must be between coowners of a property eligible for the homeowners' exemption during the entire period of coownership. The transferee has until March 26, 1982 to apply for revaluation pursuant to this section. No refund shall be made for any year prior to the 1980-81 fiscal year.

Section 63 of the Revenue and Taxation Code has been amended so that it now reads:

"Notwithstanding any other provision of this chapter,..."(emphasis added).

This means that Section 63 relating to interspousal transfers, takes precedence over all other change in ownership provisions.

Section 63 was further amended by the addition of subdivision (e) which excludes from change in ownership the distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity. The transfer must be in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation. The apparent intent of this provision is to clarify the pre-existing exclusion with respect to the distribution of the assets of a legal entity upon dissolution of marriage or separation. Property reappraised in contravention of the provisions of this subdivision should receive a reversal of such reappraisal and a refund of taxes paid.

Section 65 was amended with the addition of subdivision (e) which is the rebuttable presumption regarding original transferors. This provision was inadvertently removed by previous legislation and is being reinstated.

The amendment to Section 65.1 makes technical and clarifying changes.

Section 480 was repealed by Assembly Bill 152, and a new Section 480 added. Also added was Section 480.1 and Section 480.2 (the previous section of which was repealed). These sections are the change-in-ownership reporting sections.

The new Section 480 deals with reporting a change in ownership of real property. This section was significantly amended in that the penalty for failure to file a change-in-ownership statement is figured from the taxes applicable to the new base-year value reflecting the change in ownership.

Subdivision (b) of Section 480 requires the executor or administrator to file a statement in each county where the decedent owned property at the time of death. The statement must be filed at the time the inventory and appraisal is filed with the court. Subdivision (c) deals with the "Important Notice." The type size of the notice has again been reduced. The notice now includes references to the \$2,500 maximum penalty when failure to file the statement is not willful.

Subdivisions (d), (e), (f), and (g) of Section 480 are previous subdivisions (b), (c), (d), and (e) re-lettered.

Subdivision (h) of Section 480 requires that the change-in-ownership statement be signed by a corporate or partnership officer authorized by

the corporation or partnership to sign. (Former Section 480(f) applied only to corporate transferees.)

Subdivision (i) of Section 480 is former subdivision (g) that prevents any person or entity from incurring any liability for rendering assistance in preparing a change-in-ownership statement.

Section 480.1 was added by Assembly Bill 152. This section deals with change in control of a legal entity as defined in Section 64(c) of the Revenue and Taxation Code. The "Important Notice" states the legal requirements for filing the statement. It also states that the penalty is figured from the taxes applicable to the new base-year values reflecting the change in ownership; or, if no change in ownership occurred, the penalty is ten percent of the current year's taxes. The signed statement must be filed with the State Board of Equalization at its office in Sacramento.

Subdivision (c) of Section 480.1 is the same as subdivision (h) of Section 480 (see above).

Subdivision (d) of Section 480.1 is the same as subdivision (i) of Section 480 (see above).

Subdivision (e) of Section 480.1 entitles the Board or assessors to inspect any and all records and documents of a legal entity to determine if a change in control has occurred under Section 64(c).

Assembly Bill 152 also added Section 480.2 to the Revenue and Taxation Code. This section requires the filing of a signed change-in-ownership statement whenever there is a change in ownership of the legal entity pursuant to subdivision (d) of Section 64 (transfer of more than 50 percent of the "original coowner's" interests). The statement must be filed with the State Board of Equalization at its office in Sacramento. The penalty for failure to file is figured in the same manner as cited above under Section 480.1.

Subdivisions (c), (d), and (e) of this section are the same as subdivisions (c), (d) and (e) of Section 480.1.

It is important to note that the penalty for failure to file a change-in-ownership statement pursuant to Sections 480.1 and 480.2 is effective 45 days from the date of written request by the Board of Equalization. Previously, the penalty was effective within 45 days of the change in ownership if no statement was filed. Also, any penalty imposed pursuant to Section 480(j) prior to the passage of AB 152 should be canceled or refunded unless a written request was made by the assessor or the Board and the person or entity failed to file the statement within 45 days from the date of request.

Section 481 was amended to include the Board as well as the assessor regarding information held secret.

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Section 482 has been amended to incorporate the penalty provisions of Sections 480, 480.1, and 480.2. Subdivision (a) relates to Section 480 and subdivision (b) relates to 480.1 and 480.2. Subdivision (c) was similarly amended. The remainder of Section 482 is unchanged.

Section 482.1 was amended to conform to the amendments of Section 480. It now refers to failure by a successor in interest to file a change-in-ownership statement pursuant to subdivision (b) of Section 480. Previously, this section referenced Section 480.1. At the time the section was in effect, there was no Section 480.1 so the reference was in error. This amendment corrects the situation.

Section 483 deals with abatement of the penalty for failure to file a change-in-ownership statement. Subdivision (a) of this section now refers to the statement required by subdivision (a) of Section 482. Aside from that, it is the same as the previous Section 483(a). Subdivision (b) is new and refers to the statement required by subdivision (b) of Section 482 (statement required of legal entities).

Assembly Bill 152 also amends Section 531.2 so that it applies to escape assessments resulting from a change in control under Sections 480.1 and 480.2 as well as Section 480.

Section 2188.7 was amended in subdivision (h) of that section. The word "shall" was changed to "may."

As you are probably aware, Assembly Bill 152 was originally introduced for the purpose of amending Section 64 of the Revenue and Taxation Code. However, agreement could not be reached on what the amendments should be, and all the proposed changes were stricken just prior to the bill's final approval leaving the former provisions for the Franchise Tax Board to include appropriate questions on the income tax returns and for notifying this Board of all affirmative responses.

If you have any questions regarding either Senate Bill 1211 or Assembly Bill 152, please call our technical services section at (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:hlo  
Enclosures  
AL-01-1124A